

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 09-2454(DSD/RLE)

James Blue Thunder,

Petitioner,

v.

ORDER

Brian J. Jett, Warden and
U.S. Parole Commissioner,

Respondents.

This matter is before the court on petitioner James Blue Thunder's ("Blue Thunder") appeals of Magistrate Judge Raymond L. Erickson's September 22, 2009, order. Based on a review of the record and the submissions herein, the court concludes that the magistrate judge's order is neither clearly erroneous nor contrary to law. See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); D. Minn. LR 72.2(a).

Blue Thunder is currently detained at the Federal Medical Center in Rochester, Minnesota. On September 11, 2009, Blue Thunder filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and a motion for "relief pending review." In his September 22, 2009, order, the magistrate judge interpreted Blue Thunder's motion for relief pending review as a request to be released from custody pending final disposition of his § 2241 petition. The magistrate judge denied the motion on the basis that Blue Thunder had neither shown a "substantial federal claim that presents ... a clear and readily evident case on the

facts" or "exceptional circumstances" warranting his release. Martin v. Solem, 801 F.2d 324, 329 (8th Cir. 1986) (setting forth standard for release on bail pending disposition of habeas petition) (quotations and citations omitted).

On appeal, Blue Thunder argues that the magistrate judge misinterpreted his motion and erroneously directed respondents to file a return within thirty days. The court, however, determines that the magistrate judge reasonably interpreted Blue Thunder's motion and set forth an appropriate filing schedule. Furthermore, the magistrate judge's order was not clearly erroneous or contrary to law. Accordingly, **IT IS HEREBY ORDERED** that the magistrate judge's September 22, 2009, order is affirmed and defendant's appeals [Doc. Nos. 9 & 10] are denied.

Dated: October 23, 2009

s/David S. Doty
David S. Doty, Judge
United States District Court